THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 20117 of 2005

-

Dated:19.09.2005

Between:

Smt. K. Chellayyamma Devi, W/o. Sri K. Chanti Babu,
Grampanchayat, Divili, Peddapuram Mandal, E.G.District.

..... PETITIONER

AND

Government of A.P., rep. by its Principal Secretary, Panchayat Raj

Department, A.P., Secretariat, Hyderabad, and others.

.....RESPONDENTS

-

-

ORDER:

The petitioner is the Sarpanch of Divili Gram Panchayat, Peddapuram Mandal of East Godavari District. The third respondent, namely the District Collector, East Godavari District, who by impugned proceedings in Roc.No.3446/05-A8, dated 29.08.2005, prohibited the petitioner from operating the Gram Panchayat funds as well as SGRY, SFC, EFC and X Finance Commission funds. The Upa Sarpanch of the said Gram Panchayat was authorized to operate those funds with the counter signature of the Executive Officer (Panchayat Raj), Peddapuram. The proceedings of the District Collector are assailed in the writ petition, *inter alia,* on the ground that as per the Rules promulgated vide G.O.Ms.No.30, dated 20.01.1995, the power to suspend the cheque drawing authority of the Sarpanch is conferred in the District Panchayat Officer, against whom an appeal is provided to the District Collector. In support of the same, reliance is placed on Rule 42 of the Rules referred to hereinabove.

The learned Assistant Government Pleader was directed to get instructions in the matter at the stage of admission. It cannot be denied that the statutory rules promulgated in G.O.Ms.No.30 empower the District Panchayat Officer to prohibit the Sarpanch from drawing the monies from the Gram Panchayat for specified period and pending any enquiry it is also competent to District Panchayat Officer to issue interim direction to the Sarpanch not to draw monies. When an order is passed under Sub Rule (1) of Rule 42 of the Rules, Sarpanch is given a right of appeal before the District Collector within seven days. Now that the District Collector has passed an order, the petitioner has lost valuable right of appeal. Further, the District Collector is not competent to exercise powers of the original authority, namely the District Panchayat Officer. The legal position is not denied.

Accordingly, the writ petition is allowed. The impugned order of the District Collector, dated 29.08.2005, is set aside, giving liberty to the appropriate competent authority to pass orders in the matter. No costs.

_____

(V.V.S.RAO, J)

19.09.2005

Note: Issue C.C by 26.09.2005

B/o.

vs